IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 270 of 2005

Between:

P. Venkatesu, S/o. P. Obanna,
F.P. Shop Dealer, R/o. Arkatavemula, Rajupalem, Mandal,
Kadapa District.

..... PETITIONER

AND

1 The Joint Collector, Kadapa, Kadapa District.
2 The Revenue Divisional Officer, Jammalamadugu,

Kadapa District.
3 The Mandal Revenue Officer, Rajupalem Mandal,

Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order, or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in suspending the Fair Price Shop Dealership of the petitioner vide proceedings Ref No. B/1486/2004, dated 8-12-2004, pending enquiry, and inaction of the 2nd respondent in not completing the enquiry initiated by him as arbitrary, illegal and unjust and consequently direct the respondents to permit the petitioner to continue as Fair Price Shop Dealer, Pending disposal of the enquiry before the 2nd respondent in the interest of justice.

Counsel for the Petitioner: MR.N.PARAMESWARA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following:

ORDER:

Petitioner is a fair price shop dealer of Arkatavemula Village of Rajupalem Mandal, Kadapa District. The 2nd respondent suspended the authorization of the petitioner through orders, dated 08.12.2004, on the basis of a report said to have been submitted by the 3rd respondent. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent together with an application for stay. The grievance of the petitioner is that the 1st respondent has not disposed of the application for stay, and in the meanwhile, the 2nd respondent is taking steps to entrust the distribution of essential commodities to some other agency.

Learned counsel for the petitioner submits that the grounds stated by the 2nd respondent in the order of suspension are vague and non-existent, and even though the order was passed on 08.12.2004, till today show cause notice was not issued to the petitioner. He states that action against the petitioner was taken on extraneous considerations.

Learned Government pleader for Civil Supplies, on the other hand, submits that since the petitioner had availed the statutory remedy, no interference is called for, at this stage.

Petitioner had already availed the statutory remedy of appeal against the order of suspension. He filed an application for stay. The very purpose of filing an application for stay and conferring powers on the appellate authority to pass interim orders is to ensure that the interests of the appellants are protected. It is true that grant of interim order by an appellate authority is not a matter of course. However, its consideration cannot be delayed, and any undue delay would defeat the very purpose of filing the appeal.

On a perusal of the order of suspension, this Court *prima facie*, finds that at least some of the grounds stated therein are irrelevant or non-existent. For example, one of the grounds mentioned for suspension is that the petitioner does not hold a valid kerosene licence. Petitioner has filed before this Court a copy of retail kerosene licence, which is renewed up to 30th December, 2004. Hence, it is a clear case of non-application of mind. Ground No.5 is that the petitioner is not able to write and read since he is studied only up to 5th class. Once the petitioner was found eligible to be appointed, it is not open to the 2nd respondent to review the qualifications or eligibility of the petitioner, at this stage.

For the foregoing reasons, the writ petition is disposed of directing that the order of suspension passed against the petitioner shall remain stayed, till the 1st respondent disposes the appeal. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 19-01-2005

Note: Furnish copy

in three days.

(B/o.)

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To

1 The Joint Collector, Kadapa, Kadapa District.
2 The Revenue Divisional Officer, Jammalamadugu,

Kadapa District.
3 The Mandal Revenue Officer, Rajupalem Mandal,

Kadapa District.

4 2CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

5 2CD copies